

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JULIANO VITO ACUNA,

Petitioner,

v.

G. MATTESON,

Respondent.

No. 2:20-cv-785-EFB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner, proceeding pro se, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He has filed an application to proceed in forma pauperis. ECF No. 9. His application makes the required showing and is granted. His petition, however, does not state a viable federal habeas claim for the reasons explained below.

I. Legal Standards

The court must dismiss a habeas petition or portion thereof if the prisoner raises claims that are legally “frivolous or malicious” or fail to state a basis on which habeas relief may be granted. 28 U.S.C. § 1915A(b)(1),(2). The court must dismiss a habeas petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief[.]” Rule 4, Rules Governing Section 2254 Cases.

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1 II. Analysis

2 Petitioner's sole habeas claim is that the state trial court in which his conviction was
3 obtained lacked jurisdiction over his case because he was charged by felony complaint rather than
4 by indictment or information. ECF No. 1 at 7-8, 12. Specifically, he alleges that "the state was
5 permitted to prosecute a felony case pursuant to an illegal charging instrument incapable of
6 conferring jurisdiction upon the court and informing petitioner of the charges." *Id.* at 12.

7 This claim sounds entirely in state law insofar as it centers exclusively on the proper state
8 procedure for bringing criminal charges in California courts. And it has long been held that
9 federal habeas relief does not lie for errors of state law. *See Estelle v. McGuire*, 502 U.S. 62, 67-
10 68 (1991) ("We have stated many times that 'federal habeas corpus relief does not lie for errors of
11 state law.'") (quoting *Lewis v. Jeffers*, 497 U.S. 764, 780 (1990)). Petitioner appears to argue that
12 a want of jurisdiction is an error of such magnitude that it is not susceptible to ordinary bars. *See*
13 ECF No. 1 at 6 ("Time limits and bars . . . cannot be applied to [f]undamental [j]urisdictional
14 issues . . ."). But other federal courts have indicated that a claim that a state court lacked
15 jurisdiction under state law is not cognizable on federal habeas review. *See, e.g., Willis v. Egeler*,
16 532 F.2d 1058, 1059 (6th Cir. 1976) ("Determination of whether a state court is vested with
17 jurisdiction under state law is a function of the state courts, not the federal judiciary.");
18 *Hernandez v. Ylst*, 930 F.2d 714, 719 - 20 (9th Cir. 1991) (stating that "[w]e are not persuaded
19 that a constitutional violation necessarily occurs when the convicting state court acts without
20 jurisdiction purely as a matter of state law," but finding it unnecessary to reach issue because state
21 court had jurisdiction); *Wright v. Angelone*, 151 F.3d 151, 157-59 (4th Cir. 1998) (petitioner's
22 claim that state trial court lacked subject matter jurisdiction over certain counts was "not
23 cognizable on federal habeas review" because it "rest[ed] solely upon an interpretation of
24 Virginia's case law and statutes"); *Schweder v. Ryan*, No. CV-16-08306-PCT-GMS (BSB), 2017
25 U.S. Dist. LEXIS 208436, *28 (D. Ariz., Dec. 18, 2017) ("Because a determination of the trial
26 court's jurisdiction is based on the application of state law, Petitioner's claims challenging the

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trial court's jurisdiction are not amenable to federal habeas corpus review.") (adopted at *Schweder v. Ryan*, No. CV-16-08306-PCT-GMS, 2018 U.S. Dist. LEXIS 107072 (D. Ariz., June 26, 2018)).

Based on the foregoing, the court concludes that the petition does not state a cognizable federal claim and should be dismissed.

III. Conclusion

Based on the foregoing, it is ORDERED that:

1. Petitioner's application to proceed in forma pauperis (ECF No. 9) is GRANTED; and
2. The Clerk of Court shall randomly assign a United States District Judge to this case.

Further, it is HEREBY RECOMMENDED that the petition (ECF No. 1) be DISMISSED for failure to state a cognizable federal claim.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections within the specified time may waive the right to appeal the District Court's order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). In his objections petitioner may address whether a certificate of appealability should issue in the event he files an appeal of the judgment in this case. *See* Rule 11, Federal Rules Governing § 2254 Cases (the district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant).

DATED: June 24, 2020.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE